

Exhibit C

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

- v. -

RARE BREED TRIGGERS, LLC; RARE
BREED FIREARMS, LLC; LAWRENCE
DEMONICO; KEVIN MAXWELL,

Defendants.

1:23-CV-00369
(NRM) (RML)

DECLARATION OF SPECIAL AGENT CHERYL HARRELL

I, Cheryl Harrell, have personal knowledge of the following facts set forth below, and if called as a witness I would testify as follows:

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), and am currently the Assistant Special Agent in Charge of the ATF Tampa Field Division. As part of my responsibilities, I routinely work with the Tampa Field Division's Crime Gun Intelligence Center for case support and intelligence products. As an ATF Special Agent, I have investigated violations of federal firearms law relating to firearm trafficking, violent crime, and the illegal use, possession, shipment, and transportation of firearms during my career.

2. The facts set forth in this declaration are based on my personal knowledge; knowledge obtained as a result of my supervisory role in the ATF Tampa Field Division; information from other individuals, including ATF Special Agents and intelligence personnel involved in the investigation into Defendants; ATF records; and other sources. The information contained in this declaration is a summary and does not incorporate all facts known to me regarding this investigation.

3. This investigation involves the Rare Breed Triggers model FRT-15, manufactured, marketed and sold by defendants Rare Breed Triggers, LLC (RBF) and Rare Breed Firearms, LLC (RBF), Kevin Maxwell (Maxwell), and Lawrence DeMonico (DeMonico) (collectively, Defendants). The investigation also involves the sale of the Wide Open Trigger (WOT) by Defendants.

4. This Declaration serves as a supplement to the Declaration of Special Agent Daniel Koneschusky filed with the complaint in this action on January 19, 2023 (Koneschusky Decl.). (Dkt. 7), the Declaration of Special Agent Dean Conigliaro, dated February 23, 2023 (Dkt. 25), the Declaration of Special Agent Dean Conigliaro, dated March 29, 2023 (Dkt. 40-1), and the Declaration of Special Agent Dean Conigliaro, dated April 1, 2023 (Dkt. 43-1).

**DEFENDANTS HAVE SOLD PRODUCTS REQUIRING RETRIEVAL BY ATF
SPECIAL AGENTS**

5. Both the FRT-15 and the WOT have been classified as machineguns by ATF as they are machinegun conversion devices (MCDs). They are generally prohibited to possess or distribute, except under very limited circumstances. *See e.g.*, 18 U.S.C. § 922(o).

6. Between approximately November 28, 2022, and January 16, 2023, Defendants shipped 3,461 packages containing a suspected total of 7,700 WOT MCDs. The shipments were sent to forty-seven states and U.S. territories. These represent only a fraction of the MCDs suspected to have been sold or distributed by Defendants.

7. Between March 17, 2021, and August 22, 2021, Defendants sold approximately 560 FRT-15s to a firearms dealer in Massachusetts (“MA Dealer”) who subsequently resold the FRT-15s over the Internet to purchasers across the United States, including within the Eastern District of New York.

8. When highly restricted devices or firearms are improperly distributed to the public, either because the devices or firearms were not registered under the provisions of the National Firearms Act, 26 U.S.C. § 5801 *et. seq.*, or because they are generally prohibited from distribution because of 18 U.S.C. § 922(o), or for other comparable reasons, ATF must take steps to actively retrieve the items, or encourage and solicit their voluntary destruction or abandonment. This is done to abate the illicit possession and distribution within the marketplace; to protect the public at large; and to mitigate the risk of unlawful possession by an unaware or misinformed recipient.

9. The FRT-15 and WOT are post-86 machineguns, meaning they are machineguns that were manufactured after May 19, 1986, the effective date of the federal machinegun ban, 18 U.S.C. § 922(o). It is generally unlawful for a member of the public to possess a post-86 machinegun.

10. The MCDs sold by Defendants and the MA Dealer are the subject of an active retrieval effort by ATF, which is being coordinated by the ATF Tampa Field Division.

RETRIEVAL RISK ASSESSMENT AND RESOURCE OBLIGATIONS

11. As part of the retrieval effort, ATF first conducts an assessment of each individual recipient for the purpose of prioritizing retrievals based on risk to the community and public safety. These assessments are also necessary for the safety of ATF Special Agents that are tasked with conducting the physical retrievals and our local law enforcement partners who may provide assistance.

12. Retrievals are prioritized based on multiple factors, including, but not limited to, whether the recipient's criminal history requires heightened review, such as possession by suspected convicted felons, or whether the recipient has received multiple devices indicative of further re-selling or trafficking.

13. These assessments are often not definitive, and require further review and investigation to confirm. This further review and investigation is conducted by the ATF Field Division receiving the directive to conduct the specific retrieval based upon the geographic area in which the recipient received the MCD.

14. With respect to the retrievals associated with Defendants and the MA Dealer, there are approximately 164 recipients (as of the date this declaration was signed) requiring an enhanced review and prioritized retrieval. Included within these 164 recipients are, among others, individuals suspected of having previously been convicted of one or more felonies, as well as individuals suspected to be engaged in re-selling or trafficking.

15. Retrievals are resource intensive, requiring both a commitment in analytical resources to conduct records checks and retrieval assessments, as well as a commitment in Special Agent resources to locate and interview recipients, and retrieve the MCDs. For instance, the ATF Tampa CGIC analysts have expended approximately 2,910 working hours to conduct the required retrieval assessments. The ATF Tampa Special Agents have spent approximately 1,638 hours on the retrieval process. This does not include the hours spent by other ATF components assisting in the analytical work, related analytical work conducted by the ATF Tampa CGIC, or other associated resource demands placed on ATF in order to recover these MCDs from the general public.

16. These analytical and retrieval efforts are only the starting point. For instance, it is common for recipients to no longer be at the shipping address, and efforts have to be made to locate them. Additionally, with respect to suspected re-sellers and traffickers, ATF must attempt to identify the subsequent purchasers, and a compounding analytical and retrieval effort must then be undertaken.

17. There are 25 ATF Field Divisions in the United States. Every ATF Field Division received multiple retrieval referrals associated with either the sales by Defendants, the MA Dealer, or both.

18. Further, despite ATF's best efforts, it is not likely ATF will be able to recover every MCD sold by Defendants. Accordingly, these prohibited devices will remain in public circulation thereby jeopardizing public safety and exposing the possessor to adverse legal consequences, including possible criminal liability.

THREATS AGAINST ATF SPECIAL AGENTS

19. Retrieval of the MCDs can place ATF Special Agents and local law enforcement at considerable risk.

20. As a foundational matter, the MCDs are designed to be installed in AR-variant rifles in order to convert them to fully automatic fire. These are very dangerous weapons. Every time an ATF Special Agent knocks on a door in order to retrieve an FRT-15 or WOT, there is the possibility that an ill-intentioned individual in possession of an illegal machinegun is waiting on the other side. Further, multiple recipients have been assessed to be high-risk due to suspected criminal histories or other factors.

21. These retrieval efforts also often garner significant negative attention by certain individuals.

22. Indeed, ATF has observed an increase in threats made on social media platforms and other websites directly related to ATF's effort to recover the WOTs and FRT-15 sold or distributed by Defendants.

23. In one post on a social media platform, the poster stated "Rare Breed gave up their customer data to ATF. You can either bury the trigger when they come for it or use it." Based

upon my training and experience, the individual is stating that recipients should either conceal the MCDs from ATF, or fire on ATF Special Agents with fully automatic firearms converted with the FRT-15 or WOT.

24. In another post on a website, an individual stated the following: *Start digging holes around your whole house in your yard (sic) make about a foot deep and put 2 pounds of Tannerite in each hole (sic) cover it back up with the grass perfect and then wait for the Agents to surround your house and have one of each family member shoot a pile and start watching the fuckers go to (sic) sky high (sic) then take the frts (sic) put them on mounted turrets and start suppressing them back (sic) while that's happening have some go to the second floor and start throwing onion bombs on them and have them also start taking some marksman shots from up there (sic) keep holding them off and trust me (sic) men will come to help*” From my experience and training, the individual is encouraging the use of explosive materials as well as the use of the FRT-15s and WOTs to shoot, maim, and murder ATF Special Agents in connection with the retrieval of the MCDs sold by Defendants.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on May 5, 2023.

By: CHERYL HARRELL Digitally signed by CHERYL HARRELL
Date: 2023.05.05 15:56:57 -04'00'
Cheryl Harrell
Special Agent